

## WATER COUNCIL MEETING

NH Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

February 13, 2019  
9:00 a.m.

**Members present:** Chairman Gilbert Councilors: Boisvert, Butler, Gegas, Geisser, Hardy, O'Brien, and Spaulding

**Members absent:** Councilors Beaurivage, Clark, Henderson, Joubert, Rawnsley, and Tremblay

Also present were Carolyn Guerdet, Council Clerk

Chairman Gilbert called the meeting to order at 9:00 a.m.

### 1. Approval of Minutes of the December 12, 2018 Meeting

- ***Councilor Spaulding made a motion to accept the December 12, 2018 minutes, second by Councilor Boisvert. Motion passed unanimously with Chairman Gilbert abstaining.***

### 2. Status of Appeals

I. New Appeals

II. Decision and Orders that need to be written finalized and issued.

III. Hearings or PHCs Pending

### **Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton Appeal**

Subject: 03/29/17 Administrative Order No. 17-006 WD issued to Wiggin Way home Owners Association AND Aquarion Water Company of NH, Inc.

Hearing Officer: David Conley, Esq., assigned on 5/17/17

Recused member: Councilor Boisvert

Status: April 28, 2017 received Notice of Appeal. May 1, 2017 issued receipt of Appeal letter.

Council accepted the appeal at the May 10, 2017 meeting. 5/11/17 issued Appeal accepted letter.

5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC).

5/17/17 received Appearance from Atty. Marcia Brown. 5/18/17 received Motion to Intervene.

5/25/17 issued ruling Granting Motion to Consolidate and Motion to Intervene

December 15, 2017 received State's Motion to Dismiss. January 29, 2018 received Town of North Hampton and North Hampton Water Commission Withdrawal of Appeal.

1/31/18 received Withdrawal of Attorney Stephen Bennett and North Hampton Water Commission's Motion to Reinstate Appeal.

February 9, 2018 issued letter granting Motion to Reinstate Appeal regarding North Hampton Water Commission.

2/9/18 received Town of Hampton's Objection to State's Motion to Dismiss.

2/14/18 received Wiggin Way/ Winterberry Home Owners Association's Joinder to State's Motion to Dismiss and received Appearance for Atty. Timothy Harned for the N. Hampton Water Commission and their Objection to State's Motion to Dismiss.

2/28/18 received State's Reply to Town of Hampton's Objection to State's Motion to Dismiss.

March 5, 2018 received Surreply in Support of Objection to State's Motion to Dismiss.

May 23, 2018 issued Decision and Order denying State's Motion to Dismiss.

June 18, 2018 issued Assented to Motion to Postpone 2<sup>nd</sup> Pre-hearing Conference.

July 19, 2018 received Town of Hampton's Assented to

Motion to Postpone 2<sup>nd</sup> Prehearing Conference. 7/19/18 issued letter granting Town of Hampton's Assented To Motion and rescheduling the 2<sup>nd</sup> Pre-hearing Conference for August 30, 2018 at 9 a.m. in room 110. 7/30/18 received Appearance of Stephen Bennett for North Hampton Water Commission. 8/23/2018 received Assented to Motion to Postpone Pre-hearing Conference. 8/24/18 received Withdrawal of Stephen Bennett. 8/27/18 issued letter granting Assented to Motion to Postpone Pre-hearing Conference until September 5, 2018 at 2 p.m. 9/5/18 issued 2<sup>nd</sup> Pre-hearing Order scheduling a 3<sup>rd</sup> Pre-hearing Conference for January 22, 2019 at 2 p.m. Hearing is scheduled for April 10, 2019 at 9 a.m. January 11, 2019 received Assented-To Motion to Postpone 3<sup>rd</sup> Pre-hearing Conference. 1/16/19 issued letter granting Assented-To Motion to Postpone 3<sup>rd</sup> PHC and rescheduled it for February 11, 2019 at 9 a.m. 2/11/19 issued 3<sup>rd</sup> Pre-Hearing Order.

**Docket No. 18-09 WC Rae-Ann Melacon and Suzanne Fournier Appeal**

Re: June 18, 2018 approval of Alteration of Terrain Permit No. AoT-1437 issued to Leighton A. White, Inc.

Hearing Officer: David Conley, Esq., assigned on 9/17/18

Recusals: Councilor Henderson

Status: July 5, 2018 received Notice of Appeal. 7/16/18 issued receipt of Appeal letter. 7/20/18 received Appearance of Biron Bedard and Motion to Intervene. 7/24/18 received Appearance of Christopher Aslin for the department. Council accepted Appeal September 12, 2018. 9/13/18 issued Appeal accepted letter. 9/20/18 issued Notice of Pre-hearing Conference scheduled for October 22, 2018 at 1 p.m. 9/20/18 received Appearance of Attorneys Michael Schowalter and Richard Head for the Appellants. October 2, 2018 received Assented to Motion to Continue Pre-hearing Conference. 10/4/18 issued letter granting Motion to Continue PHC and rescheduling it for November 7<sup>th</sup> at 9 a.m. November 7, 2018 issued Pre-hearing Order scheduling hearing for May 8, 2019 at 9 a.m.

**IV. Inactive/Status Letter or Pending Settlement/Withdrawal**

**Docket No. 18-04 WC – Town of Hampton, NH Appeal**

Re: 1/17/18 Administrative Order No. 18-001 WD

Hearing Officer: David Conley, Esq., assigned on 4/10/18

Status: February 16, 2018 received Notice of Appeal. 2/21/18 issued receipt of Appeal letter. March 7, 2018 received Appearance from Atty. Maloney. Council accepted appeal on March 14, 2018. April 5, 2018 issued Appeal accepted letter. 4/13/18 issued Pre-hearing Conference notice for May 21, 2018 at 10 a.m. May 21, 2018 received agreement to Hold in Abeyance and issued Pre-hearing Order. September 17, 2018 received Status Report.

**3. New Business**

**a. Commissioner Scott**

The Commissioner thanked those who were able to make it in the inclement weather and for their work on the Council. He then introduced Sarah Yuhas-Kirn as the new Manager of the Land Resources Management Program. The Commissioner also spoke about the resume of Thomas O'Donovan that was shared with the Council as the possible new Water Division Director. After consultation with the Water Council the Commissioner will then make recommendation to the Governor for appointment. Comments were received from the Council.

Wetlands rules are close to being finished. HB1104 regards response times and includes an increase in fees. Fees which haven't been changed for 11 years.

Regarding PFAs - implementing rules for the compounds is being worked on through the formal rulemaking process. The second step is to set surface water standards. There will be a large

public discussion. EPA will announce their PFAs Roadmap on February 14<sup>th</sup>. This is a long process. Council questions and comments were heard. He noted they are looking at peer reviewed science. It was asked - are they looking at toxicology vs. epidemiology approach or combination of everything? From the Trust Fund over 92 million dollars has been allocated mostly for infrastructure.

b. Drinking Water and Ground Water Rules

1) Env-Dw 1300 Drinking Water & Groundwater Bureau Trust Fund Rules

Debra Sonderegger and Johnna McKenna reviewed the proposed rules. This is the State Revolving Loan Fund Program and it is working with the MTBE Trust Fund. These rules are on how to administer the grants and loans that the advisory will select. The goal is process and how to get the funding agreements in place. Once in place, manage construction and non-construction, and if loans – how repayments will work. They are working on consistency. This started with a guidance document and these are the formal rules. Questions and comments were addressed from the Council. Formal rulemaking to begin soon.

2) Env-Dw 700-800 Water Quality Standards, Monitoring, Compliance, Reporting and Public Notification for Certain Perfluorochemicals

Debra Sonderegger and Chip Mackey took questions regarding these rules. These were developed along with the MCLs and toxicology group. Input is wanted from public water systems. These are state standards and not federal standards. It has been in the news and notices have been sent out. There will be 3 public hearings for comments with written comments due April 12<sup>th</sup>.

3) Env-Wq 402 Discharges to Groundwater of Wastewater Containing Certain Perfluorochemicals

Debra Sonderegger and Stephen Roy discussed an amendment related to PFAs compounds. They are in a broad spectrum of consumer products that end up in groundwater or surface water. It is in all wastewater. Our facilities are not built to treat these compounds. Need to build in an adaptation for our treatment facilities. About half are above the standards. Comments and questions were heard from the Council. Both solid and liquid waste facilities are contaminated with the PFAs. This is a fine line to walk. The question is how to break the triangle. Important to look at holistically. This issue has brought all DES bureaus together.

c. PFAs Rules Update

Draft drinking water standard to be worked through. After 3 hearings the written comments are due by April 12<sup>th</sup>. They will then be compiled and revise rules accordingly. It is still a moving target.

d. Winnepesaukee River Basin Program Presentation

Administrator Sharon McMillin gave a presentation on the wastewater treatment facility in Franklin. The WRBP sewer system began in the 1970s with the Clean Water Act. This was driven by a combination of economic and water quality factors. It was a first in the New England Region. It showed how community collaboration could work. 10 communities are served with 57 miles of pipe and 14 pumping stations. They also collect septic from over 100 communities. They take in about 5 million gallons a day of wastewater and about 1.5 million gallons of septic. It costs 2/10<sup>th</sup> of a penny to treat a million gallons. WRBP costs are only part of each sewer user's bill since communities maintain their own sewers. Independent evaluations confirm a complaint, well-maintained system run by DES employees that has received numerous awards. The WRBP Advisory Board is currently exploring alternative governance options.

4. **Old Business**

None

5. **Next Meeting**

March 13, 2019 at 9 a.m. with PFA updates and Dave Conley to give an orientation on hearings.

6. **Adjournment**

- ***Councilor Boisvert made a motion to adjourn, second by Councilor Spaulding. Motion passed unanimously.***

Meeting was adjourned at 11:21 a.m.